XI-HC—78

(17)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

M.A(C) No.1098 of 2007

Appellant Sunderlal jain son of Shri Ramlal Jain, aged about 55 years, r/o Nandanpara, Police Station Kanker, Distt. Kanker (C.G)

Versus

RESPONDENTS

1. Sanjay Karmakar, s/o Shri Ranjeet Karmakar, aged about 28 years, resident of 79, Area Babdem Tahsil Pakhanjur, Distt. North Bastar Kanker (C.G.)
2. M/s. Kanker Roadlines, Civil Lines, Raipur, Distt. Raipur (C.G).
3. The New India Insurance Company Limited, Divisional Officer, Raipur, Distt. Raipur (C.G.)
4. Santram Sahu, s/o Shri Ratiram Sahu, aged about 35 years, r/o Makdi, Tahsil Kanker, Distt. North Bastar, Kanker (C.G).
5. The National Insurance Company Limited, Near R.R.I. Office, Jagdalpur, Distt. Bastar (C.G)

Misc. Appeal u/s 173 of the Motor Vehicles Act.

Appearance:

Shri P.P. Sahu, and Shri S.P.Sahu, counsel for the appellant.

D.B: **Hon'ble Shri Justice L.C. Bhadoo, J &**
Hon'ble Shri Justice Sunil Kumar Sinha, J.

ORAL ORDER

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.C. 1098 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

(01.10.2007)

L.C.Bhadoo, J,

Heard on admission.

The appellant, who is the claimant and husband of Sonbati Jain, has preferred this appeal u/s 173 of the Motor Vehicles Act 1988 being aggrieved by the award dated 17.8.2007 passed by the Addl. Motor Accident Claims Tribunal Kanker in Claim Case No.47/2007. Sonbati met with an accident on 29.10.2006 and she was taken to the Hospital at Dhamtari where she died on 6.11.2006, as a result of grievous injuries sustained by her.

By the impugned award the learned Tribunal after assessing the annual income of deceased Sonbati Jain as Rs.18000/- per year and after deducting 1/3rd personal expenses of the deceased, assessed the dependency of the claimant appellant as Rs.12,000/- i.e., 2/3rd of the income of deceased per year. As the age of the claimant was 55 years at the time of the incident, therefore, by applying the multiplier of 8, the loss of dependency was assessed as Rs.96,000/-. Apart from that the Tribunal has awarded Rs.2000/- for funeral expenses, Rs.5000/- for love and affection, Rs.2500/- for loss of estate and Rs.4000/- for medical expenses and thereby, in all, an award to the tune of Rs.1,09,500/- has been passed along-with interest @ 9% per annum from the date of filing of the claim petition i.e. 11.5.2007 till its realization.

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मामला क्रमांक M.A(C) 1098/ सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Learned counsel for the appellant argued that the learned tribunal has assessed the dependency on lower side as Sonbati Jain used to earn about Rs.200/- per day by selling vegetables. He also argued that the multiplier of 11 ought to have been applied. In para 14 of the award, the learned Tribunal after scrutinizing the evidence reached to the conclusion that Sonbati was earning about Rs.1500/- per month by selling vegetables. Learned tribunal mentioned that no proof regarding the income was filed, therefore, the Tribunal held that in the ordinary circumstances deceased Sonbati was earning about Rs.1500/- per month and we are of the considered opinion that the finding of the Tribunal is not perverse in any way as that does not suffer from any infirmity and the loss of dependency has been assessed as 2/3rd of the income, which cannot be said on the lower side.

As far as the application of multiplier is concerned, the claimant himself has written his age as 55 years at the time of accident, as per the 2nd schedule, the multiplier 8 has to be applied whereas the age of the claimant is between 55-60 years. Learned counsel for the appellant submits that the age of the deceased Sonbati was 50 years, therefore, the multiplier 11 ought to have been applied. This argument of the learned counsel for the appellant is not reasonable as the multiplier has to be applied looking to the age of the claimant if he is elder than the deceased and the age of the claimant on the date

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मामला क्रमांक M.A.C. 1098/ सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
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of accident was 55 years, therefore, the multiplier of 8 has rightly been applied by the Tribunal.

For the foregoing reasons, we are of the opinion that the learned Tribunal has not committed any illegality or infirmity by passing the impugned award. The learned Tribunal has awarded the just and reasonable amount. The appeal being devoid of merit is liable to be dismissed and it is hereby dismissed at the motion stage itself.

Sd/-
L.C. Bhadoo
Judge

Sd/-
Sunil Kumar Sinha
Judge